

D-9

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 23, 2015

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.15OD-135

Oahu

Amend Prior Board Action of September 11, 2015, Item D-6, Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From October 2, 2015 to September 30, 2016, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:021 (Por).

The purpose of the amendment is to reinstate the safety zone fee of \$500 for the aerial fireworks display occurring every Friday.

BACKGROUND: On August 11, 2015, Hawaii Explosives & Pyrotechnics, Inc. submitted an email requesting a right-of-entry permit for every Friday from October 2015 to September 2016 for firework display at the subject location.

On September 11, 2015, under agenda item D-6 (**Exhibit 1**), the Board approved the request for the annual aerial fireworks display at Duke Kahanamoku Beach ("Beach") occurring every Friday, and required a \$50 payment for each event date.

Safety zone fee

When the Board considered a right-of-entry permit for a single firework show at its meeting on June 14, 2013 (Item D-5), the Board approved the staff's recommendation of a safety zone fee of \$500, in addition to the firing launching platform fee of \$50.¹ Staff understood that a safety zone, with a radius of approximately 250 feet, would extend beyond the firework launching platform. The public would be prohibited from staying in or passing through the safety zone once the vendor has implemented the safety zone.²

The safety zone would trigger a fee exceeding \$19,000 per event date based on its area. Staff determined the fee to be cost prohibitive and recommended a flat rate of \$500 (instead of the \$19,000 plus) for a total cost of \$550 per event date. Neither Hilton Hawaiian Villages (HHV) nor Hawaii Explosives & Pyrotechnics was present at the June 2013 Board meeting.

In October 2013, HHV requested the Board reconsider its decision approving the safety zone fee. HHV argued that the fireworks display benefits the community, while the limitation of beach access is temporary and for safety purposes. Further, HHV argued that its role as an effective steward and caretaker of the Beach as substantiated by its commitment to maintain the Beach at

¹ For a typical size of 500 square feet.

² The vendor determines the period when people are prohibited from staying within or passing through the zone.

its own expense should also be considered by the Board. Lastly, HHV argued that the significant amount of increase (1000%) and the frequency of its assessment (every Friday) created a financial burden on HHV.

In addition to the rationale described in the 2013 Board submittal, staff also wants to point out that Land Division has been transferring revenues generated by the Special Land Development Fund, which includes the subject firework display permit fees, to other resources protection programs. Staff additionally points out that HHV is obligated to maintain the Beach as a condition of a 15-year beach concession contract. Last but not least, staff does not believe the argument of financial burden on HHV due to the safety zone fee is compelling.

HHV's representative and its counsel attended the February 14, 2014 Board meeting. **Exhibit 2A** and **2B** are the copy of the 2014 submittal and HHV's response respectively. Eventually, the Board approved as amended the staff's recommendation by affirming the imposition of the \$500 safety zone fee, but exempted such fee from the Friday night displays.

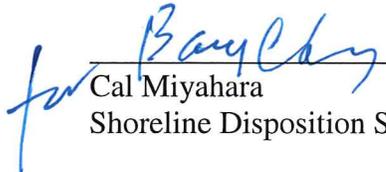
At its meeting on September 11, 2015, the Board directed the staff to review the safety zone fee issue. Since 2013, it has been the Land Division's position that a safety zone fee should be imposed for any firework display right-of-entry permit, regardless of the event day, as evidenced by the submittals mentioned above. Therefore, staff recommends the Board amend its action of September 11, 2015, (Item D-6) to reinstate the safety zone fee of \$500 for every aerial fireworks display, covering both regular Friday and non-regular firework displays subsequent to the Board date.

For the Board's information, right-of-entry permit for the five (5) shows in October 2015 at a \$50 fee per event was issued pursuant to the September 11, 2015 approval.

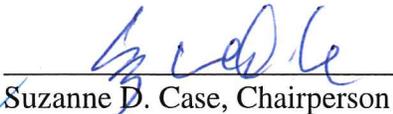
RECOMMENDATION: That the Board:

1. Amend its prior action of September 11, 2015, item D-6, by reinstating the safety zone fee of \$500 per event for the annual aerial fireworks display occurring every Friday from November 1, 2015 to September 30, 2016 in the manner described above subsequent to the Board date.
2. All terms and conditions listed in its September 11, 2015 approval to remain the same.

Respectfully Submitted,


Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 11, 2015

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.15OD-135

Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From October 2, 2015 to September 30, 2016, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:021 (Por).

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key:(1) 2-3-037:portion of 021, as shown on the map attached as **Exhibit A**.

AREA:

500 square feet, more or less, for set-up and firing site, plus a safety zone with a radius of approximately 250 feet around the firing site.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Public Precinct

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
September 11, 2015 10.

D-6
EXHIBIT " 1 "

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM:

Between 4:00 p.m. and 9:00 p.m. on the dates shown in **Exhibit B**.

RENTAL:

\$50.00 per event date.

At its meeting of February 14, 2014, under agenda item D-12, the Board exempted the Friday night fireworks shows at the subject location from the \$500 safety zone fee. The subject request pertains to the regular Friday night shows, which does not trigger any payment of the safety zone fee as described above.

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", as included in **Exhibit C**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

Hawaii Explosives & Pyrotechnics, Inc. (HEP) is contracted with Hilton Hawaiian Village to conduct aerial fireworks display every Friday for a period of 12 months from October 2015 to September 2016 at Duke Kahanamoku Beach.

By its letter dated August 10, 2015, HEP request the issuance of a right-of-entry permit for aerial fireworks display at Duke Kahanamoku Beach every Friday between October 2015 and September 2016, with the dates shown in Exhibit B.

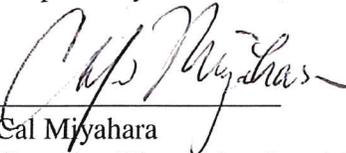
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

No comments were solicited from other government or community agencies. Staff has no objection to this request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Hawaii Explosives & Pyrotechnics, Inc. on specified dates covering the subject area for aerial fireworks display purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

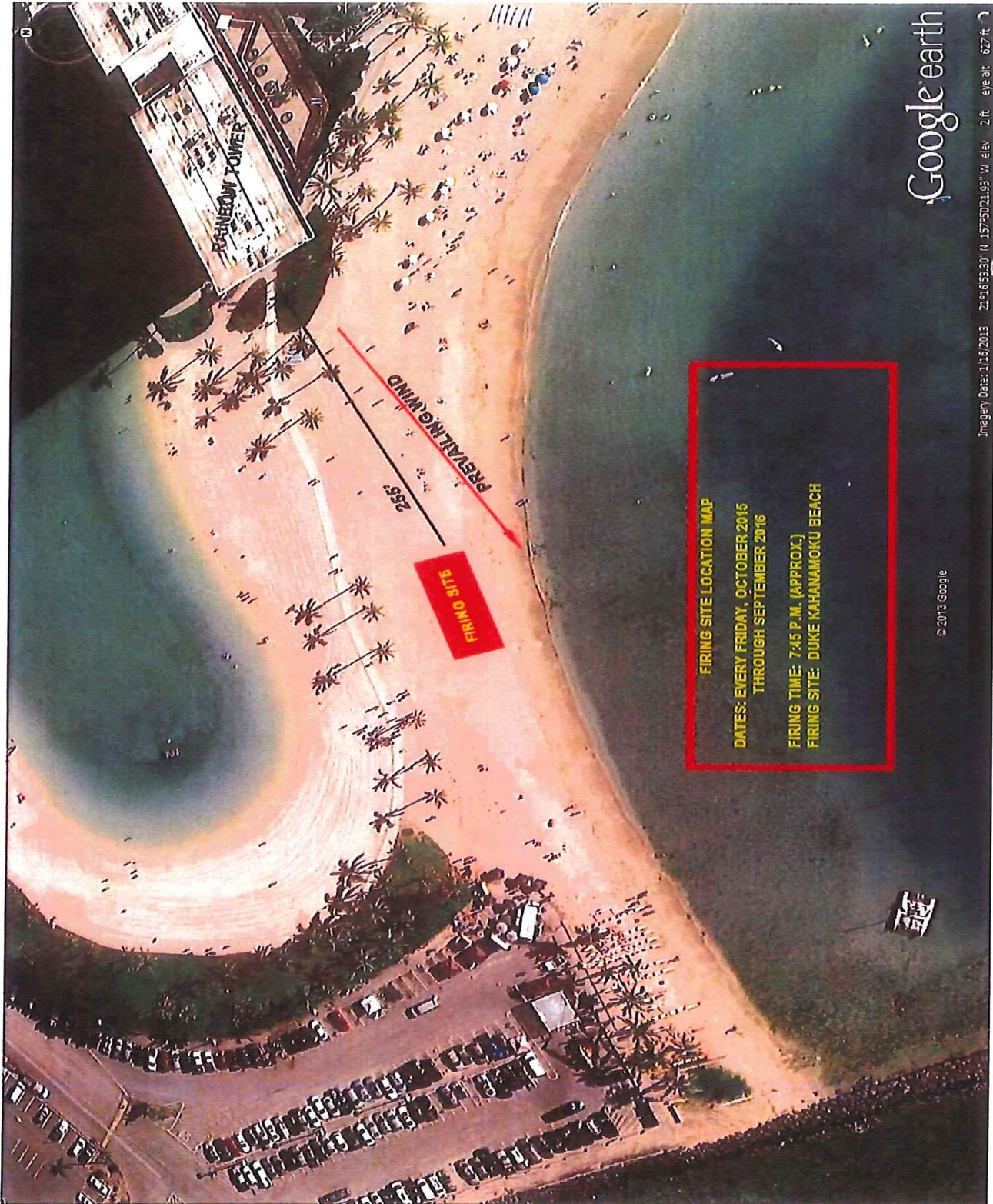
Land Board Meeting: September 11, 2015; D-6:
Approved as submitted.

Approved as submitted. See attached page.

Land Board Meeting: September 11, 2015; D-6: Approved as submitted.

Approved as submitted.¹

¹ Certain Board members questioned, and expressed concern about the exemption of the normal \$500 safety zone fee only for Hilton Hawaiian Hotel's Friday night fireworks show. The Board asked staff to rethink that exemption and bring the matter to the Board in the near future.



FIRING SITE LOCATION MAP
DATES: EVERY FRIDAY, OCTOBER 2015
THROUGH SEPTEMBER 2016
FIRING TIME: 7:45 P.M. (APPROX.)
FIRING SITE: DUKE KAHANAMOKU BEACH

Hawaii Explosives & Pyrotechnics, Inc.

P. O. Box 1244 Keaau, Hawaii 96749
Phone: (808) 968-0600 (Big Island) Fax: (808) 968-0800 (Big Island)
Toll Free: (800) 240-6064 Email: hepinc@hipyro.com

August 10, 2015

Mr. Stephen Lau, Oahu District Representative
Department of Land and Natural Resources
Division of Land Management
P.O. Box 621
Honolulu, HI 96809-0621

Subject: Request for Renewal
Right of Entry for Duke Kahanamoku Beach

Dear Mr. Lau,

Hawaii Explosives & Pyrotechnics, Inc. would like to request Right-of-Entry for Duke Kahanamoku Beach in order to provide fireworks display services in conjunction with the weekly Rockin' Hawaiian Rainbow Revue at the Hilton Hawaiian Village. The displays are to be held every Friday throughout the months of October 2015 through September 2016. Details are as follows:

Event:	Hilton Hawaiian Village Rockin' Hawaiian Rainbow Revue Fireworks Displays
Location:	Waikiki, Oahu
Display Dates:	October 2, 9, 16, 23, 30, 2015 November 6, 13, 20, 27, 2015 December 4, 11, 18, 25, 2015 January 1, 8, 15, 22, 29, 2016 February 5, 12, 19, 26, 2016 March 4, 11, 18, 25, 2016 April 1, 8, 15, 22, 29, 2016 May 6, 13, 20, 27, 2016 June 3, 10, 17, 24, 2016 July 1, 8, 15, 22, 29, 2016 August 5, 12, 19, 26, 2016 September 2, 9, 16, 23, 30, 2016
Firing Time:	7:45 p.m. (approximately)
Hours of Operation:	Between 4:00 p.m. and 9:00 p.m. (each date)
Firing Site:	Duke Kahanamoku Beach (Exhibit A)

Request for Renewal
Right of Entry for Duke Kahanamoku Beach

Request

Authorization to conduct all procedures associated with display operations to include closure, security and monitoring of the display site and adjacent safety zone, positioning of mortar racks and firing equipment on the beach, setup and wiring of pyrotechnics, display ignition and discharge from the specified area, and the completion of all post-display operations as related to each pyrotechnic display.

Plan of Action

Duke Kahanamoku Beach firing site (Exhibit A):

Our personnel will close and secure an area surrounding the intended display discharge site prior to the unloading of equipment and pyrotechnics. Approximately 500 square feet will be utilized for the setup of display equipment, positioning of racks containing 3" mortars, loading and wiring of pyrotechnics into mortars, and conduct of all other applicable display operations. A security perimeter will be established to include the beach area adjacent to the Ala Wai Boat Harbor parking lot down to the ocean, along the Hilton Lagoon to the area fronting the Ewa side corner of the Hilton Rainbow Tower, and across the beach back down to the ocean, forming a semi-circle around the discharge site. Security personnel will monitor the established safety/fallout zones to prevent entry into the area by the general public and unauthorized personnel during display preparations, ignition, and post-display breakdown.

Required: We will require approximately 500 square feet of the beach area for the setup of our equipment and as the display discharge site for each fireworks production.

Standard Safety & Security Procedures

Hawaii Explosives & Pyrotechnics, Inc. practices safety and security procedures within industry standards to do our very best to minimize risk to the general public, tourists and hotel guests as we prepare for, fire, and clean up after our displays. Our personnel and the private security officers are trained to be courteous to everyone while being firm in preventing entry into any potentially hazardous area. It is our ultimate goal to present every display in a manner that is absolutely safe, yet spectacular and enjoyable for all.

Hawaii Explosives & Pyrotechnics, Inc. – Important Contact Names & Numbers:

Main Office (808) 968-0600 (office)
Charlene Pascual, President
Stephanie Pascual, Vice President
Donald Pascual, Safety Coordinator
Bruce Albrecht, Operations Manager

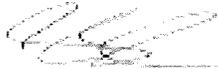
Request for Renewal
Right of Entry for Duke Kahanamoku Beach

Enclosed please find copies of firing site location map (Exhibits A) and a certificate of insurance pertaining to the weekly Rockin' Hawaiian Rainbow Revue Fireworks Displays covering the period March 2015 through March 2016. (A new certificate of insurance for the weekly displays will be forwarded upon renewal of the policy in March of 2016 to cover displays through September 2016.)

All required permits from appropriate agencies for the conduct of each fireworks display will be obtained.

We appreciate your consideration of this request for renewal of our Revocable Permit. Thank you in advance for your assistance for us to provide fireworks display services for the enjoyment of visitors and residents alike.

Sincerely,



Stephanie Pascual
Vice President

Enclosures

EXEMPTION NOTIFICATION

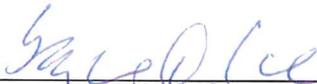
Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Aerial Fireworks Display at Duke Kahanamoku Beach
Project / Reference No.: PSF 150D-135
Project Location: Waikiki, Honolulu, Oahu, TMK:(1) 2-3-037: portion of: 021.
Project Description: Aerial Fireworks Display every Friday night from October 2, 2015 to September 30, 2016.
Chap. 343 Trigger(s): Use of State Land
Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

This Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that periodically occurred and continues to occur on this and other beach areas across the State. Such activities have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. Staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable

Recommendation: It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson

9/25/15

Date

EXHIBIT "C"

AMENDED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 14, 2014

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Oahu

Staff Recommendation to Deny Hilton Hawaiian Village's Request to Modify Fee for Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays at Duke Kahanamoku Beach situate at Waikiki, Honolulu, Oahu, Tax Map Key No.: (1) 2-3-037:021 (portion).

BACKGROUND

The Board has approved, and continues to approve, right-of-entry permits to applicant Hawaii Explosives and Pyrotechnics, Inc. for the purpose of conducting fireworks displays at Duke Kahanamoku Beach fronting the Hilton Hawaiian Village ("HHV"). The fee for the permits was \$50.00 per event, based on a 500 square foot firing site as a cost of \$.10 per square foot per day. At its meeting on June 14, 2013, under Agenda Item D-5, the Board continued to approve the permit request, but raised the fee an additional \$500.00. A copy of the approved submittal is attached as Exhibit 1.

The reason for the increase was that the applicant was excluding the public from a much larger portion of the beach area in order to establish a safety zone around the firing site. The safety zone consisted of an area extending for a 250 foot radius from the firing site, measuring a total of 196,250 square feet. If the normal permit rent were applied to the area, the cost of the permit would be \$19,625.00, making the permit cost prohibitive. Considering the high rent and the benefit of the safety zone, staff recommended that the cost of the permit be increased an additional \$500.00 for a total cost of \$550.00. There was no testimony on the item, which the Board unanimously approved as submitted.

On October 16, 2013, the Department received a letter from HHV, requesting that the Board reconsider its decision approving the fee increase. HHV outlined several reasons to justify its request, including the benefit the fireworks display provides to the community, the limitation of beach access is temporary and for safety purposes, HHV's commitment to maintaining the Duke Kahanamoku beach area at its own expense, the significant amount of the increase and the frequency of its assessment, and HHV's role as an effective steward and caretaker of Duke Kahanamoku beach. A copy of the request is attached as Exhibit 2.

REMARKS

as amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
February 14, 2014 *uo*

D-12

EXHIBIT "2A"

Although the Department is mindful and appreciative of the benefit to community of both the fireworks display and HHV's maintenance of the Duke Kahanamoku beach, staff recommends that the increased fee remain in place, as it provides revenue essential to the Department in carrying out its responsibilities. The revenue provided by permit fee is used to fund Department programs that support the very resources that benefit the HHV, as well as the tourist industry as a whole, such as coastal resource protection and state park facilities. While the fireworks display may create an economic benefit for multiple entities resulting in increased general excise and real property tax revenues, the Department does not receive any support from either of those sources. The sole means of revenue for the Department with respect to this activity remains the permit fee, which is deposited into the Special Land Development Fund ("SLDF") and The Beach Restoration Special Fund ("BRSF").

The SLDF covers the entire annual operating budget of the Land Management Division, the Office of Conservation and Coastal Lands, the Dam Safety program, and the geothermal program. The SLDF also funds other positions within the Department such as three (3) positions within the Commission of Water Resource Management, and provides funding support to the Division of State Parks, and various resource protection programs administered by the Division of Forestry and Wildlife. Primary beneficiaries and users supported by the SLDF are the lessees of public lands, the Land Management Division, the Office of Conservation and Coastal Lands, other divisions and offices of the BLNR and DLNR. Examples of recent and specific beneficiary and user support are:

Division of Forestry and Wildlife. In recent years, the SLDF has provided approximately \$800,000 annually to the Division of Forestry and Wildlife to support the recovery of threatened and endangered species and the control of invasive species. These funds match approximately \$1,500,000 in federal grants from the Endangered Species Act Section 6 Recovery Program and the State Wildlife Grants Program to recover the State's most critically endangered species. Examples of this work include successful captive propagation of Alala, Palila, Puaiohi, and Maui Parrotbill, establishing new populations of Palila on Mauna Kea, fencing and eradicating ungulates from Puu Waawaa Forest Bird Sanctuary, habitat restoration on leeward Haleakala for Maui's forest birds, wetland and waterbird conservation at Hamakua, Kawai Nui, and Pouhala wetlands on Oahu, studies on Kauai's nesting seabirds, and reintroduction of Puaiohi into the Alakai Wilderness Area. This funding is helping make significant progress toward preventing the loss of native species, habitats, and biodiversity. The SLDF also provides approximately \$500,000 annually to support the wildland fire suppression throughout the State through DOFAW's Forest Stewardship program.

Engineering Division. The SLDF is critical for operations of the Engineering Division, as it supports staffing and expenses for multiple programs. In fiscal year 2009-2010, the fund provided: over \$570,000 for the Mineral Resources/Geothermal program to manage the geothermal resource to protect public health and safety and to ensure its continued viability for the future; over \$815,000 for the Dam Safety/Flood Control Program to regulate dams and reservoirs to protect life and property, and administer the National Flood Control Program to ensure the availability of flood insurance to property owners; and over \$350,000 for the Land Maintenance Crew to manage and maintain various State-owned lands, remove

vegetation and debris from streams, and perform evictions on state lease lands. Without these funds, the DLNR will not be able to ensure the safety of all dams and reservoirs and respond to dam emergencies or perform other mandated duties.

Division of State Parks. The SLDF is critical for operations of the Division of State Parks, which has previously received between \$250,000 to 500,000 annually from the SLDF to make up for consistent general fund budget shortfalls for operation, maintenance and payroll support that keep our parks open. In recent years, the SLDF provided an additional \$584,216 for lifeguard services at Ka'ena Point State Park for public health and safety of park users. In addition to managing and protecting natural and cultural resources, the Division of State Parks serves to provide recreational access for both residents and visitors. Our Hawai'i State Park system serves as a significant destination of Hawai'i's visitor industry, with 6.7 million out-of-state visits annually.

Office of Conservation and Coastal Lands. The Office of Conservation and Coastal Lands (OCCL) has been entirely funded by the SLDF. OCCL's annual allocation for salaries and fringe benefits is approximately \$450,000 (6.5 FTP), with operating costs running approximately \$200,000. Most of the operating costs are from Contested Case Hearings, supplies, and equipment. OCCL was also provided in FY13 an additional \$400,000 for its Beach Restoration Fund in connection with a beach nourishment project in Ka'anapali. A severe reduction in the income generating capacity of the SLDF could result in the elimination of OCCL functions. OCCL is the State's zoning authority for all Conservation District lands in the State of Hawai'i, this includes terrestrial and marine areas out to three miles in the ocean, including fast and submerged lands. This entails processing permits for land uses involving private and public entities and prosecuting land use violations, with the intent to ensure the conservation of these unique and fragile areas. In terms of land area, OCCL is responsible for more area than all of the counties combined (albeit less population density). OCCL has been able to perform its function efficiently and effectively even with a relatively small staff and any reduction in funding and staffing would severely limit its ability to service the public. Loss of this government function would essentially result in the loss of projects within conservation lands because there would be no one available to process regulatory permits pursuant to Chapter 183C, Hawaii Revised Statutes. This would have a major impact to business; thousands of private landowners, government agencies, the university, marine users for energy and mariculture, just to name a few. These entities need OCCL to process their applications for use of conservation district lands, such as in the case of telescopes, renewable energy projects, single-family homes, and public infrastructure.

Commission on Water Resource Management. The SLDF supports critical activities and essential programs undertaken by the Commission on Water Resource Management (Commission). Annual supplemental funding of \$324,000 from the SLDF provides payroll costs for three key Planning Branch positions: State Drought and Water Conservation Coordinator, Hydrologist VI, and Hydrologist IV. These three positions comprise the entire professional nonsupervisory staff of the Planning Branch, which is responsible for the establishment of an integrated program for the protection, conservation, and management of the waters of the State. The Commission's General Fund Personal Service budget is not adequate to pay for these three positions at this time. Efforts to convert these special-funded

personnel to general-funds in the past were denied. In addition, future pay raises, pay adjustments (e.g., reallocations and step movements) and increases in the fringe benefit rates for these positions will require additional funding.

The SLDF is also used to fund Commission programs, activities, and the implementation of Commission priority projects, such as the 20-year Water Use Permit Review; Estimating Plant Water Use for Water Use Permitting; Modified RAM2 for Estimating Sustainable Yields; Implementation of Interim Instream Flow Standards in East Maui; and funded \$170,000 for contested case hearing administrative costs. Due to the limitations of Commission's general fund, funding from the SLDF is also used for advancing invoice payments for reimbursable federal grants for projects and to fulfill non-federal cost share obligations required under some federal grants. The uncertainty of grant opportunities requires that Commission funding be available in order to qualify for these federal grants.

Funding allotted from the SLDF enables the Commission to implement the State Water Code's declaration of policy by funding personnel, programs activities, and projects that are essential for water resource planning and fulfillment of State Water Code mandates. To date, the Commission has effectively utilized its SLDF allotments to further the management of our most precious public trust resource.

The BRSF supports DLNR's beach conservation and restoration efforts. Funds from the BRSF were recently used to complete the Waikiki Beach Maintenance Project and will be used similarly to fund the Ka'anapali Beach Restoration Project (2014-15), and future Waikiki Beach maintenance. The recently completed Waikiki Beach Maintenance project was a \$2.5M project. \$1.5M was used from the BRSF. The other \$1M was matched by Hawaii Tourism Authority and private hotel funds. The fund also supports DLNR's efforts to promote beach restoration projects by county, hotel industry, and private interest by providing technical expertise/guidance on beach restoration, maintenance, and protection. The overall intent of the BRSF is to restore degraded beaches.

The BRSF supports beach restoration efforts being conducted by the DLNR, Office of Conservation Lands (OCCL). The main purpose of the OCCL is to regulate and protect all Conservation District lands within the State of Hawaii, and the territorial seafloor. The authorizing statute for this function is Chapters 183C, and 190D, HRS. In addition to this primary function, the OCCL operates a Coastal Lands Program (CLP) that was established via the Coastal Erosion Management Plan that was adopted by the Board of Land and Natural Resources (BLNR) in 1999. One of the recommendations of the plan is to establish a program devoted to saving and restoring Hawaii's beaches. The beneficiaries of the BRSF are the general public and the visitor industry.

Although HHV's request does provide information regarding the economic and community benefits of the fireworks display, as well the benefits provided by their management of the Duke Kahanamoku beach area, HHV does not actually indicate that paying the increased fee would result in an undue financial burden. In addition, HHV has not stated that it considered any alternatives to address the permit fee other than requesting a rescission from the Board. The material provided by HHV clearly shows that other businesses use the fireworks display to

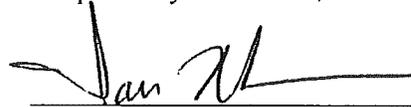
market their own services, yet it appears as though these businesses do not provide any monetary assistance, leaving the cost burden for the fireworks display solely on HHV. If the increased permit fee imposes such a burden to HHV, it could approach other entities that use the fireworks display for the benefit of their own business to cost share.

Finally, although the Department is mindful and appreciative of the services that HHV provides for the public benefit of the Duke Kahanamoku beach area, the fact is that these services also provide HHV with a distinct competitive advantage by increasing the marketability of the resort. The HHV website describes the resort as "Waikiki's only resort destination" and "located on Waikiki's widest stretch of beach", noting that "Duke Kahanamoku Beach fronting the resort was recently named the second best beach in America for 2013." HHV also markets a variety of beach activities that are available to resort guests, such as beach chair rentals, surfing lessons, kayak rentals and catamaran rides. Considering the benefits conveyed to HHV, as well as other Waikiki hotels, from the revenue generated by the permit fees, balanced against the minimal burden on the HHV from the increase, staff recommends that the Board reject the request by HHV to reconsider in the increased permit fee for fireworks displays.

RECOMMENDATION: Staff recommends that the Board:

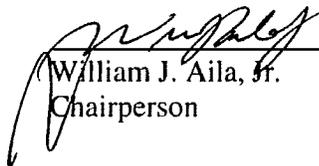
1. Reject HHV's request to reconsider the increased permit fee.

Respectfully Submitted,



Ian Hirokawa
Special Projects Coordinator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr.
Chairperson

Land Board Meeting: February 14, 2014;
D-12: Approved as amended.

Approved as amended. The Board amended the "Recommendation" section of the submittal to read:

Staff recommends that the Board:

1. Affirm the \$500 fee charged for the safety zone around the fireworks firing site, but exempt Friday night fireworks shows at Duke Kahanamoku Beach in Waikiki from the \$500 safety zone fee.



Gerard C. Gibson
Area Vice President

October 15, 2013

William J. Aila, Jr.
Chairperson
Board of Land and Natural Resources
Kalanimōku Building
1151 Punchbowl St
Honolulu, HI 96813

Dear Chair Aila:

Hilton Hawaiian Village ("Hilton") respectfully requests that the Board of Land and Natural Resources (BLNR) reconsider its recent decision which resulted in a very significant increase in fees which Hilton is now required to pay for its Friday night fireworks display. The increase is from the former fee of \$50 per event to the new and enlarged amount of \$550 per event ("Escalated Amount"), an approximately 1000% increase.

At the time the BLNR adopted the Escalated Amount, Hilton was unaware of the change under consideration, and was not able to provide its perspective with respect to the Escalated Amount when it was previously under consideration by the BLNR. Accordingly, Hilton appreciates the opportunity to present the following information for consideration by the BLNR.

First, the fireworks display benefits the entire community, not just the patrons and guests at Hilton Hawaiian Village. The fireworks display has become a tradition that the local community and businesses look forward to every Friday evening. As you can see in the photo attached as *Exhibit A* many local people enjoy the fireworks from the beach in front of Hilton Hawaiian Village and Duke Kahanamoku Lagoon, as well as Magic Island. Equally importantly, local businesses which serve both local customers and visitors have showcased the Hilton fireworks event as a benefit to their respective business operations. These businesses advertise and realize genuine value from Hilton's fireworks display by offering business products marketed such as Fireworks Dinner Cruises, Mahina Moonlight Sails, and Trolley Rides to see the Friday night fireworks show. Attached *Exhibit B*, *Exhibit C* and *Exhibit D* are a few examples of websites marketing such business activities.

Second, Hilton Hawaiian Village is happy to share its fireworks display with the whole community and only limits access to the beach to ensure spectator safety during the fireworks display. During the fireworks display, the general public is not deprived of use of the beach. The attached photos, attached as *Exhibit E*, show that on evenings on which there are no fireworks display the beach is relatively empty. In fact, people flock to the beach to view the fireworks display. Like events such as Sunset at the Beach, the general public makes fuller use of the beach during the evenings when the fireworks are on display.



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EXHIBIT "2B"

Third, Hilton Hawaiian Village takes pride in doing its part in maintaining the natural beauty, safety and cleanliness of Kahanamoku Beach at its own expense. Hilton cleans the beach, grooms the beach and empties the trash on a daily basis. Hilton also trims the palm trees periodically to help keep the beach safe and looking attractive for everyone.

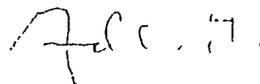
Fourth, Hilton Hawaiian Village was started by the approximately 1000% increase from \$50.00 to \$550.00 in the Escalated Amount assessed for each fireworks event by DLNR for Hilton to provide this program to the general public. Hilton understands that the Escalated Amount may have been precipitated in part by disruption caused by special events. Hilton is agreeable to pay the Escalated Amount in the case of special events, separate from the regular fireworks program which Hilton provides to the general public.

Fifth, and finally, Hilton Hawaiian Village is proud to be the effective guardian/custodian of Duke Kahanamoku Beach. Although Hilton pays a \$50,000 per month concession fee to the DLNR for the right to locate its concession booth and surfboard racks on the beach, none of Hilton's concession operations are actually located on the beach, and instead are maintained on Hilton Hawaiian Village property. Hilton's commitment to cause as little impact as possible on the beach was paramount in its decision to place its concessions within the foot print of Hilton Hawaiian Village property.

Hilton Hawaiian Village appreciates the opportunity to share with you information in this letter. Hilton respectfully requests that the BLNR reconsider and reverse the decision which resulted in the Escalated Amount.

Mahalo nui loa for considering our request.

Very respectfully,



Gerard C. Gibson
AVP of Hilton Hawaiian Village Beach Resort
and Spa